

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ADJUSTACAM LLC

v.

AMAZON.COM, INC.; ET AL.

CAUSE NO. 6:10-cv-329-JRG

**PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY REGARDING
NEWEGG'S AND SAKAR'S RENEWED MOTIONS FOR DECLARATION OF
EXCEPTIONAL CASE**

Plaintiff AdjustaCam LLC respectfully submits this Notice of Supplemental Authority, as follows:

During the hearing on the subject motions, the Court questioned the parties about its role on remand. The parties also discussed the analogous *Site Update Solutions* case. In *Site Update Solutions*, Newegg sought fees that were denied pre-*Octane*. The Federal Circuit remanded the case for re-review by the district court post-*Octane*, and the district court again denied fees. At the time of the Court's hearing, the *Site Update Solutions* case was still pending on Newegg's second round of appeal. The Federal Circuit has now issued its ruling in the *Site Update Solutions* case, affirming the district court's second denial of fees, and rejecting yet another overreaching attempt by Newegg to obtain a fee award. *Site Update Solutions, LLC v. CBS Corp.*, --- Fed. Appx. ----, 2016 WL 380119 (Fed. Cir. Feb. 01, 2016) (Exhibit 1). In reaching its decision not to overturn the district court's denial of fees, the Federal Circuit made several statements applicable to this case as well, including as follows:

Although reasonable minds may differ, the district court ruled from a position of great familiarity with the case and the conduct of the parties... Newegg essentially urges this Court to adopt a de novo review of the district court's findings. As we note above, our review is limited to determining whether the district court based its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence, or otherwise abused its discretion. We do not agree with Newegg that this is a situation where the district court failed to apply the correct law. Thus, under the circumstances of this case, our review authority is limited to whether a district court's findings are supported by evidence and sound reasoning. **The new Octane Fitness standard for an exceptional case applies both ways: discretion is entitled to a district court's findings that § 285 attorney's fees**

are not applicable, as much as discretion is owed to findings that they are applicable.

Id. (emphasis added) (citations omitted).

February 11, 2016

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF,
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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with notice of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) and with a copy of this filing via email.

February 11, 2016

/s/ John J. Edmonds
John J. Edmonds